

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Glenn Gubbels,
Petitioner-Appellant,

v.

City of Sioux City Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-107-0646
Parcel No. 8947-16-402-020

On February 23, 2010, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Glenn Gubbels is self-represented and submitted evidence in support of his petition supplementing the Board of Review record. The Board of Review designated Attorney Jack A. Faith as its legal representative and submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Glenn Gubbels, owner of property located at 3241 Virginia Street, Sioux City, Iowa, appeals from the Sioux City Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story frame dwelling having 2799 square feet of living area which includes 721 square feet of finished attic. The property also has 350 square feet of finished basement and an attached 504 square-foot garage. The improvements were built in 1949, are in normal condition, and have a quality grade of 4+10. The dwelling is situated on a 0.310 acre site. The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$157,400, representing \$23,100 in land value and \$134,300 in dwelling value.

Gubbels protested to the Board of Review on the ground that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a). Gubbels contended the assessed value of his home "is out of line with the area." Specifically, he stated the brick house next to his sold for \$72,000 and a house across the street, with five bedrooms and a big yard, has been listed for \$132,000 for a year. This information was listed on his correspondence to the Board of Review, in lieu of the standard petition form. The Board of Review denied the protest stating "Insufficient evidence presented to prove assessment is excessive." This comment suggests that its decision was based on a claim of over-assessment under section 441.37(1)(b).

Gubbels then appealed to this Board. He claimed that the assessment was not equitable compared with assessments of other like property. He also stated, "We feel the assessed value is very high for the area located." Gubbels contends that \$140,100, allocated \$23,100 to land value and \$117,000 to the dwelling value, was the actual value and a fair assessment of the property. Gubbels also submitted real estate listings for six homes in the area ranging for list prices of \$80,000 to \$129,900 with his petition. Again, Gubbels raises the issue of over-assessment in correspondence accompanying his petition. Because Gubbels statements make it clear he was asserting a claim of over-assessment, in addition to inequity, the Board will consider both these grounds in this appeal.

Gubbels' real estate listings show the number of bedrooms and bath rooms for some of the listings but important information, such as total square feet of living area, necessary for a meaningful comparison was lacking. Additionally, listing price is not necessarily reflective of the eventual sale price of property and therefore is not a credible indicator of market value.

Gubbels testified that a decline in market value is shown by the property at 3260 Virginia Street. It sold for \$129,950 in 2007, was listed for sale at \$132,000 in 2008 and sold again for \$117,500 in July 2009 after the assessment date. Gubbels also reported that the property next door to

his sold last summer for \$72,000, although he concedes that it is considerably smaller than his dwelling. No additional information about this dwelling was presented and we are unable to make any meaningful comparison based on the data provided. Gubbels assumes his property assessment should decline based on the lowered sale prices of these properties. Initially, Gubbels raised a possible measurement error in calculating the amount of finished attic. Later he withdrew this concern when it was clarified that the term "attic" on the property record card actually referred to the finished bedroom area on the second floor of his dwelling.

The Board of Review submitted an exhibit showing five dwellings built in the 1950s that are similar to the subject property. The total square foot of living area for these properties ranged from 1834 square feet to 2472 square feet, whereas the subject property has 2799 square feet of living area. The Board of Review noted that Gubbels property has been given 10% functional obsolescence for being over-built in the area. According to the exhibit, dwelling values ranged from \$59.82 per square foot to \$82.33 per square foot of living area with a median value of \$75.97 per square foot. The Gubbels dwelling is assessed at \$56.23 per square foot of living area which is lower than the range on this exhibit. This exhibit does not suggest the Gubbels' property is inequitably assessed, since it is assessed at a lower price per square foot than comparable properties in the area similar in age, style and grade.

Field appraiser, Nan Owings, testified on behalf of the Board of Review. Owings has been employed by the assessor's office for seventeen years and has worked as a field appraiser for the last ten years. She testified that she prepared the equity comparisons exhibit using similarities such as age, quality of construction, and total living area as search criteria. The five properties selected are located within four blocks of the Gubbels dwelling. However, Owings did not review the subject property nor the most recent sale in the area.

Reviewing all the evidence, we find that it is insufficient to prove the Gubbels' January 1, 2009, assessment is inequitable or that the property is assessed for more than authorized by law.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell*

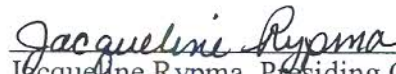
v. *Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion Gubbles failed to present persuasive evidence sufficient to support the claim that his assessment was inequitable as compared with assessments of other like property in the taxing district. The assessed value per square foot of his property was less than comparable properties of similar age, size, and quality.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Sufficient evidence was lacking to prove that the Gubbels' property is over-assessed or to prove the subject property's fair market value as of the assessment date. The mere fact that two properties in the neighborhood sold for what Gubbels considered an indication of a declining market is insufficient to support his claim of over-assessment and no substantive evidence was offered to establish the subject property's actual fair market value.


We, therefore, affirm the Gubbels' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$157,400, representing, \$23,100 in land value and \$134,300 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Sioux City Board of Review is affirmed.

Dated this 9 day of March 2010.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair


Richard Stradley, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-9</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>Glenn Gubbels</u>